

FISCAL NOTE

SB 2583 - HB 2662

March 22, 2006

SUMMARY OF BILL: Increases the penalty for the offense of unlawful sexual activity against a child less than 13 years of age from a Class A felony to a capital offense punishable by death, life without parole, or life imprisonment.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$182,700 / Incarceration*

Other Fiscal Impact – It is estimated that one offender every three years will receive a death sentence. If a death-sentenced offender serves an average of 20 years before the sentence is carried out, there will be no significant additional incarceration costs for the death-sentenced offenders, apart from the execution. The cost of executing each inmate will exceed \$15,000. The cost to the state of trials and appeals from death-sentenced offenders is substantially higher than for other cases. It is estimated that the additional cost of trials and appeals from death sentences will exceed \$750,000 for each case.

Assumptions:

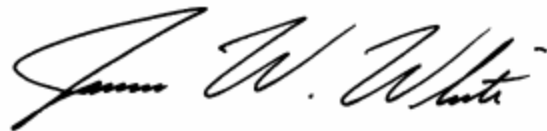
- According to the U. S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past 10 years.
- One additional person per year will be convicted of the Class A felony offense of unlawful sexual activity against a child less than 13 years of age that will result in a first degree murder conviction.
- Persons convicted of this offense currently serve an average of 20 years. One offender every three years will receive a death sentence. Each non-death sentenced offender will serve an additional 31 years (an increase from 20 years to 51 years) on their sentence as a result of this bill.
- According to the Department of Correction, the average operating cost per inmate per day for calendar year 2006 is \$50.02. At an average of one additional offender per year, there will be ten offenders serving additional time on their sentences in the tenth year after the sentence increase is added to time currently served. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on ten offenders serving additional time on their sentences.

- The cost per inmate per year is \$18,269.81 (365.25 x \$50.02). The cost in the tenth year after the sentence increase is added to time currently served is \$182,698.10 (\$18,269.81 x 10 offenders).
- One additional death penalty prosecution every three years. Given the relatively small number of additional death penalty prosecutions, there will be no additional assistant public defender or assistant district attorney positions.
- Tennessee has executed one inmate in the past 45 years. That execution occurred in 2000, at a cost in excess of \$11,000.
- The state incurs substantial out-of-pocket expenses in death-sentence trials and appeals. These include costs of appointed attorneys, expert witnesses, investigation, and related matters. These additional costs are estimated to exceed \$750,000 in each case.

**Tennessee Code Annotated, Section 9-4-210, TCA, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director